

REMARKS

Claims 1-18 are pending in the present application.

In the Office Action mailed December 16, 2003, the Examiner rejected claim 18 under 35 U.S.C. §102(e), and claims 1 and 7 under 35 U.S.C. §103. The Examiner objected to claims 2-6, 8-13, 16 and 17. Applicant respectfully responds to this Office Action.

35 U.S.C. §102 Rejection

Applicant's respectfully disagree with the Examiner's characterization of Kramer a teaching each of the limitations of Applicant's claims. Specifically, Kramer teaches detecting an outage, but does not teach

“...transmitting a data outage indicator to inhibit data transmissions during the outage from a mobile wireless apparatus being operative in the wireless data communication system...”

as recited in claim 18. In contrast to transmitting a data outage indicator to inhibit data transmissions from a mobile apparatus, Kramer teaches blocking channels to a machine that is not in service. Further, the outage referred to by Kramer is an inactive machine and therefore Kramer would not need to send a signal to inhibit transmissions. Kramer instead blocks the channels freeing them up for other use. See Kramer, col. 9, lines 49-55. Therefore, Kramer does not teach each and every limitation of the claim. Applicant respectfully requests that this rejection be withdrawn.

35 U.S.C. §103 Rejections

To establish a prima facie case of obviousness three basic criteria must be met. First, there must be some suggestion or motivation of, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference(s) must teach or suggest all the claim limitations.

The rejection of the claims fails to make a prima facie case of obviousness. While Applicant agrees that Pankaj teaches a scheduler, and Kokko teaches a channel reservation system, the combination does not result in Applicant's invention, as the references do not teach each and every limitation of the presently rejected claims.

Specifically, Applicant respectfully disagrees with the Examiner's characterization of Kokko as teaching a method and apparatus as recited in Applicant's claims 1 and 7. Claim 1 recites:

“a first set of computer readable instructions operative to determine if sufficient time slots are available to transmit a data packet prior to an outage; and
a second set of computer readable instructions operative to generate an outage indicator to inhibit transmission of the data packet if sufficient time slots are not available.”

Kokko does not teach or even suggest determining a number of time slots prior to an outage; Kokko does not teach or suggest determining an outage. In contrast, Kokko teaches determining if “the required amount of resources does not exceed the maximum allowable amount of resources,” wherein resources refers to loading. See Kokko, col. 6, lines 37-46 and FIGs. 4A and 4B. Kokko does not teach evaluating a number of time slots available, but rather looks at total loading per a measure such as R_{tot} , the total capacity of the cell as a function of R_{ps} , capacity of packet services, and R_{cs} , capacity of circuit switched services. Kokko does not teach or suggest an outage, but rather teaches access control by considering current loading. Kokko teaches a method to optimize system loading. See Kokko, col. 6, lines 65-67.

As Kokko does not teach or suggest determining if sufficient time slots are available to transmit a data packet prior to an outage, Kokko does not, therefore, teach an outage indicator to inhibit transmission of the data packet if sufficient time slots are not available as recited in Applicant's claim. Kokko teaches sending a transmission prohibition, but the prohibition of Kokko does not prevent the user from transmitting a single data packet, but rather prevents a user from starting a packet transmission, i.e., denies access. Further, the transmission prohibition of Kokko is not an outage indicator. Kokko does not discuss outages. Kokko teaches a scheduling

method based on loading. Therefore, the cited references do not teach each and every limitation of the claims.

Similarly, claim 7 recites:

determining a data service outage; and

transmitting a data outage indicator to inhibit data transmissions during the
outage from a mobile wireless apparatus being operative in the
wireless data communication system.

As stated above, Kokko does not teach an outage. Kokko merely teaches that if the system is already loaded, the network will deny new access to service. See Kokko Figs. 4A and 4B. Therefore, the cited references do not teach each and every limitation of the claims. Applicant respectfully requests these rejections be withdrawn.

Claim Objections

Arguments given above render the base claims patentable, and therefore Applicant respectfully requests the objections be withdrawn.

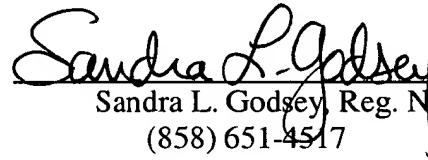
REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application is earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

Dated: January 28, 2004

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